



**UNITED STATES DEPARTMENT OF COMMERCE  
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DS

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/097,888	06/15/98	WRIGHT	M 20308-36

LM02/1223

CLIFFORD A POFF  
436 SEVENTH AVENUE  
SUITE 2230 KOPPERS BUILDING  
PITTSBURGH PA 15219

EXAMINER

HUANG, S

ART UNIT	PAPER NUMBER
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2736

7

DATE MAILED: 12/23/98

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
09/097,888

Applicant(s)  
Wright et al.

Examiner  
Sihong Huang

Group Art Unit  
2736



☒ Responsive to communication(s) filed on Jun 15, 1998

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-6 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1, 2, and 4-6 is/are rejected.

☒ Claim(s) 3 is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 6

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## **DETAILED ACTION**

### ***Oath/Declaration***

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not state that the person making the oath or declaration in a continuation-in-part application filed under the conditions specified in 35 U.S.C. 120 which discloses and claims subject matter in addition to that disclosed in the prior copending application, acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in 37 CFR 1.56 which occurred between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

### ***Specification***

2. The disclosure is objected to because of the following informalities:

On page 1, under the title of "Cross Reference To Related Application", the information regarding application No. 08/839,300 should be updated to include the patent No. 5,767,774.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

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3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 4 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Dwyer (U.S. Pat. #3,823,285).

Regarding claims 1 and 2, Dwyer discloses a patient monitoring system (Fig. 7) including the combination of: a plurality of pneumatic pressure generators (15a and 15b); conduit (14, 64; see Fig. 7 for connection); a pneumatic actuated switch (12).

Regarding claim 4, Dwyer discloses a force-actuated pressure generator (15a, 15b).

Regarding claim 5, Dwyer in Figs. 1-6 clearly discloses the claimed pneumatically actuated switch.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dwyer (U.S. Pat. #3,823,285) in view of Roberts et al. (U.S. Pat. #5,736,702).

Regarding claim 6, Dwyer differs from the claimed invention in that Dwyer does not specifically disclose that the pneumatically actuated switch includes a housing having the capability of providing a plurality of angular orientations for air passage from the pressure generators. However, as evidenced by Roberts, providing such housing is well known in the art (Figs. 1 and 2) and an obvious modification to the switch housing of Dwyer for a flexible pneumatically actuated switch due to the multiple angular orientations housing for connection.

***Allowable Subject Matter***

7. Claim 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

8. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

(703) 308-9051, (for formal communications intended for entry)

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**Or:**


(703) 305-3988, (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,  
Arlington, VA., Sixth Floor (Receptionist).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sihong Huang whose telephone number is (703) 305-3966.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffery Hofsass, can be reached on (703) 305-4717.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700.

  
**Thomas J. Mullen, Jr.**  
**Primary Examiner**  
**Art Unit 2736**

Sihong Huang

December 11, 1998